

UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF WISCONSIN

THE ESTATE OF THE UNBORN CHILD OF
JENNIFER JAWSON; AND
JENNIFER JAWSON,

Plaintiffs,

Case No. 19-CV-01008-LA

v.

MILWAUKEE COUNTY, *et al.*,

Defendants.

**INJURED PATIENTS AND FAMILIES COMPENSATION FUND'S
CIVIL LOCAL RULE 16 PRETRIAL REPORT**

Defendant, Injured Patients and Families Compensation Fund (the "Fund"), by and through its counsel, Gass Turek LLC, submits the following Pretrial Report.

I. A Short Summary of the Facts, Claims, and Defenses.

Plaintiffs Jennifer Jawson and the Estate of the Unborn Child of Jennifer Jawson bring claims for the violation of Jawson's constitutional rights under § 1983 against Dr. Karen Horton and Ms. Jennifer Pitterle, as well as claims for negligence and wrongful death under Wisconsin law against Dr. Karen Horton and the Fund.

With respect to the underlying facts, claims, and defenses, the Fund incorporates by reference Dr. Karen Horton's Pretrial Report.

The Fund has a very limited role in this case. It provides coverage for only one defendant (Dr. Karen Horton), and with respect to only the state-law medical malpractice claim against Dr. Horton. None of the other defendants are covered by the Fund, and the Fund does not provide coverage for Section 1983 or other claims. The Fund is only named as a defendant with respect to Counts III and IV of the Plaintiff's Amended Complaint, which alleges negligence resulting in

wrongful death. The Fund is not named as a defendant to Count I, which alleges Section 1983 claims against other defendants.

Plaintiff's negligence/medical malpractice claims are subject to Wisconsin's rules on comparative and contributory negligence. In addition, potential damages for the state law claims are statutorily limited under Wisconsin law. There is a cap on non-economic damages. The plaintiffs are only asserting non-economic damages in this case. Punitive damages are not recoverable. The Fund only provides coverage for medical malpractice claims in excess of Dr. Horton's mandatory one million dollars primary liability policy. Wis. Stat. § 655.27(1). If Dr. Horton has policy limits that are greater than one million dollars, the Fund's liability does not apply unless and until the liability limits have been exhausted. *Id.* The Fund's position is plaintiff's damages do not exceed one million against Dr. Horton on the negligence/medical malpractice claims. Therefore, the Fund does not think it has any exposure in the case regardless of the outcome.

II. Statement of the Issues

The Fund incorporates by reference Dr. Karen Horton's pretrial report.

III. Witnesses

The Fund incorporates by reference Dr. Karen Horton's pretrial report.

IV. Expert Witnesses

The Fund incorporates by reference Dr. Karen Horton's pretrial report.

V. Exhibits

The Fund incorporates by reference Dr. Karen Horton's pretrial report.

In addition, if plaintiffs seek to recover past medical expenses at trial, then the Fund would submit as an exhibit its December 13, 2021 Requests for Admission to plaintiffs, which were never responded to and therefore deemed admitted, admitting that the reasonable value of plaintiff's claimed medical expenses is \$214.80:

1103 Injured Patients and Families Compensation Fund's Request to Admit Amounts Paid for Medical Expenses with Cover Letter dated December 13, 2021.

VI. Length of Trial

The Fund incorporates by reference Dr. Karen Horton's pretrial report. In the event that Dr. Horton is found liable at the conclusion of the trial, the Fund may file post-verdict motions relating to damages.

VII. Proposed Voir Dire Questions

The Fund incorporates by reference Dr. Karen Horton's pretrial report.

VIII. Brief Summary of Underlying Claims and Defenses

The Fund incorporates by reference Dr. Karen Horton's pretrial report.

IX. Proposed Substantive Jury Instructions

The Fund incorporates by reference Dr. Karen Horton's pretrial report.

X. Proposed Verdict Form

The Fund incorporates by reference Dr. Karen Horton's pretrial report.

Dated this 7th day of August, 2023.

GASS TUREK LLC

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